

Docket No. MCRVT-001BC

REMARKS/ARGUMENTS

The foregoing amendment and the remarks which follow are responsive to the office action dated August 24, 2005.

In the office action, newly submitted method claims 54-57 were withdrawn from consideration as being directed to a non-elected species. The Examiner reasoned that the claimed device could be used to perform a method that differs from that recited in the method claims. By this amendment, independent claim 33 and 54 have been amended and a Request for Continuing Examination (RCE) is being submitted along with this response. In view of the current amendments, method claims 54-57 are believed not to be so independent or distinct as to require restriction. Thus, examination and allowance of all pending claims, including method claims 51-57, is respectfully requested.

In the office action, claims 33 and 51-53 were rejected under 35 U.S.C. §103(a) as being unpatentable over United States Patent No. 5,911,734 (Tsugita, et al.) in view of United States Patent No. 5,167,239 (Cohen, et al.). In support of this rejection, the Examiner has taken the position that, although Applicant's claims require an embolus removal apparatus that expand to its expanded configuration without requiring axial movement or rotation of the guidewire, such does not distinguish over the embodiment shown in Figures 10 and 11 of Tsugita, et al.

Also in the office action dependent claims 33 and 47 were indicated to be allowable.

Examples of Applicant's claimed invention are shown in Figures 10-27D of the application. For ease of reference, Figure 19B is reproduced herebelow:

Docket No. MCRVT-001BC

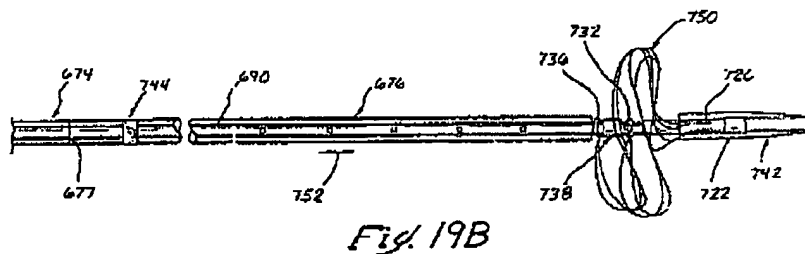
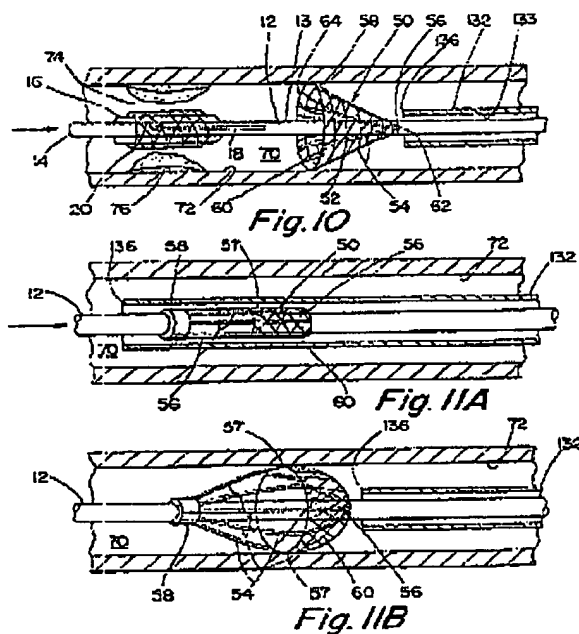


Fig. 19B

As seen in the above Figure 19B, this embodiment of the invention comprises a catheter body having an inner tube 690 and an outer tube 676 and an embolus retrieval apparatus 750. The embolus retrieval apparatus comprises a plurality of resilient elongate members (e.g., wires). The proximal and distal ends of these elongate members are secured to the catheter body, as shown. When the outer tube 676 is withdrawn in the proximal direction, the mid-portions of the resilient elongate members expand laterally outward from the catheter to form a "nest" or network while the proximal and distal ends of the elongate members remain secured to the catheter body. The catheter device may then be retracted through the lumen of the blood vessel causing an embolus to become entangled with the protruding "nest" of elongate members. The entangled embolus may then be removed from the body along with the catheter device.

In contrast, the devices shown in Figures 10-11 of Tsugita, et al. have entrapment devices that expand to form a receptacle having an open mouth through which embolic matter is received within a concave interior of the receptacle. Copies of Figures 10-11 of Tsugita, et al. are reproduced herebelow:

Docket No. MCRVT-001BC

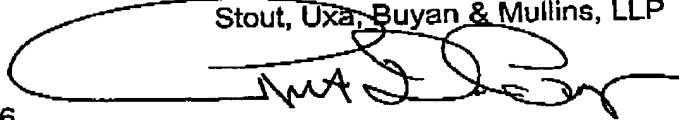


By the present amendment, Applicant's independent claims 33 and 54 have been amended to recite an embolus removal apparatus that comprises a plurality of elongate members having proximal and distal ends which are secured to the catheter body and mid-portions that extend laterally outward when in the expanded state such that clot becomes entangled in the elongate members. This is clearly different from the devices taught by Tsugita, et al. Thus, on the basis of this distinction as well as others not specifically discussed here, independent claims 33 and 54 are clearly distinguishable over Tsugita, et al. and all other prior art of record. Accordingly, all claims 33, 34, 47 and 51-57 are

Docket No. MCRVT-001BC

believed to be in condition for allowance. Reexamination and issuance of a Notice of Allowance is earnestly solicited.

Respectfully submitted,
Stout, Uxa, Buyan & Mullins, LLP



Date: February 24, 2006

Robert D. Buyan, Reg. No. 32,460

4 Venture, Suite 300
Irvine, CA 92618
Telephone: (949) 450-1750
Facsimile: (949) 450-1764